

Approved/Amended Minutes
BROOKFIELD PLANNING COMMISSION
THURSDAY, April 19, 2012 7:30 PM
MEETING ROOM #133 – TOWN HALL, 100 POCONO ROAD

1. Convene Meeting

Chairman Jon Van Hise convened the meeting at 7:30 PM and established a quorum of members:

Present: Chairman J. Van Hise, Vice Chair A. Kerley, R. Baiad, D. Frankel, *L. Taylor, Alternate N. Tolmoff

Absent: P. Conlon

Also Present: R. Tedesco, Public Works Director; E. Cole, Recording Secretary

*L. Taylor will be a voting member in the absence of Patrick Conlon.

2. Review Minutes of Previous Meetings: 04/05/12

A. Kerley made a motion to accept the minutes of the April 5, 2012 meeting as submitted.

R. Baiad seconded the motion, and it carried unanimously, 5-0.

R. Baiad made a motion to go to item 6a, Correspondence. D. Frankel seconded the motion, and it carried unanimously, 5-0.

6. Correspondence:

a. Memo from the Zoning Commission to the Planning Commission dated 04/05/12 Re: Proposed Zoning Regulation Change Application #201200261: Section 242-405 – Apartment Units within Single-family Dwellings

A. Kerley noted that the Zoning Commission's application for a regulation change will allow for caregivers, and non-related disabled and elderly persons to live in the apartments. Chairman Van Hise stated that this regulation reflects the reality of today.

A. Kerley made a motion to respond to the change to the Zoning Commission that the Planning Commission is favorably inclined to the application for a zoning regulation change application #201200261, Section 242-405. D. Frankel seconded the motion, and it carried unanimously, 5-0.

b. Memo from the Zoning Commission to the Planning Commission dated 04/05/12 Re: Proposed Zoning Regulation Change Application #201200258: Section 242-305F – Commercial Vehicles in Residential Zones

Chairman Van Hise noted that the proposed regulation change is very detailed. A. Kerley stated that it seems as though the Zoning Commission has expanded the amount of detail in the application and in the wording of the regulation. A. Kerley stated that there is a changing social climate today, and many businesses are run out of homes. Chairman Van Hise stated that a special permit would still be required for specific trucks, and he also noted that the proposed regulation has a noise limitation as well.

R. Baiad made a motion that the Planning Commission looks favorably upon this Zoning regulation change application #201200258: Section 242-305F regarding commercial vehicles in residential zones. A. Kerley seconded the motion, and it carried unanimously, 4-0-1, with D. Frankel abstaining.

D. Frankel made a motion to return to item #2, 101 Obtuse Hill Road for the continued public hearing. A. Kerley seconded the motion, and it carried unanimously, 5-0.

CONTINUED PUBLIC HEARING: 7:45 PM

101 Obtuse Hill Road #201101091: 6-lot subdivision – “Whispering Glen Section II”

(PH Close Date 05/05/12)

P. Young was present on behalf of Finmark Custom Homes, LLC.

P. Young stated that he had submitted new, revised 400-scale maps to the Commission. P. Young stated that the memo from the Conservation Commission has been forwarded to the lawyers, and the deed is being drafted for the open space property. P. Young stated that he also has worked with the Town Engineer on a new bond estimate.

P. Young stated that the Inland Wetlands Commission will not have a quorum at their next meeting on April 23rd. Chairman Van Hise stated that this public hearing before the Planning Commission needs to be closed at the next meeting scheduled for May 3rd. Chairman Van Hise stated that the Commission can take technical information after the close of the public hearing. Chairman Van Hise stated that the Planning Commission cannot approve the subdivision application until the Inland Wetlands Commission approves the Wetlands subdivision application. P. Young stated that he hopes to be in touch with the Inland Wetlands Commission to ask if they will have a special meeting for the application.

R. Tedesco stated that he walked the property with P. Young, and updated the calculations for a revised bond estimate. R. Tedesco noted that he recommended that the bond be set at \$105,000.00 based on the work that P. Young is proposing. A. Kerley stated that he believes that most of the information is complete, but that he will work with P. Young and the Land Use Office to be sure that the subdivision file is complete.

L. Miller, of 115 Obtuse Hill Road, was present as a member of the audience to comment about the application.

Chairman Van Hise asked for comments from the audience.

L. Miller asked that the public hearing not be closed because he has an engineer who is working on the drainage calculations and he hopes to have the report within the week. Chairman Van Hise stated that the Commission needs to close the public hearing by May 3rd, and cannot take any further correspondence from the public after May 3rd.

A. Kerley made a motion to extend the public hearing on 101 Obtuse Hill Road #201101091 to May 3rd at 7:45 PM. D. Frankel seconded the motion, and it carried unanimously, 5-0.

3. Old Business: None.

4. New Business: None.

5. Minutes of Other Boards & Commissions: 04/02/12 Zoning Board of Appeals; 04/09/12 Inland Wetlands; 04/12/12 Zoning

The Commission noted the projects outlined in the meeting minutes.

The Commission moved to item #6.c. on the agenda.

6. Correspondence:

c. Memo from the Zoning Commission to the Planning Commission dated 04/05/12 Re: Proposed Zoning Regulation Change Application #201200259: Section 242-401A(2)(g) – Customary Home Occupation

Chairman Van Hise stated that the Zoning Commission has an application to change the zoning regulation that pertains to allowing more than one commercial vehicle in a residential zone by special permit pertinent to the customary home occupation regulation.

D. Frankel made a motion to accept the zoning regulation change application #201200259 section 242-401A(2)(g). A. Kerley seconded the motion.

A. Kerley asked if a homeowner's association can override these Zoning Commission regulations to not allow a commercial vehicle in view. Chairman Van Hise stated that the residents of the homeowner's association agree to the terms of the homeowners association.

The motion carried unanimously, 5-0.

d. Memo from the Zoning Commission to the Planning Commission dated 04/05/12 Re: Proposed Zoning Regulation Change Application # 201200260: Section 242-501 – Table of Permitted Uses for Industrial & Commercial Districts

Chairman Van Hise noted that the only change to this current Zoning regulation is to the maximum building height limitations. The Commission discussed the limitation of heights for buildings in the Town Center District listed in the Table of Permitted Uses.

L. Taylor made a motion to accept the application change for #201200260 section 242-501. D. Frankel seconded the motion, and it carried unanimously, 5-0.

7. Informal Discussion:

Marty Handshy, consultant to the Board of Selectmen, was present to speak with the Commission.

Attorney Peter Olson, who practices law in Bethel, CT was present to speak with the Commission.

Attorney Peter Olson stated that he has been writing a revised conservation easement for the Town for the water tank and the access to the water tank at 540 Federal Road.

Attorney Peter Olson stated that there was a conservation easement on the upper part of the property that was put into place when the subdivision was changed to a five lot subdivision. Attorney Peter Olson stated that it was not quite clear in that easement about what could be done in regard to a potential installment of a water system. The Town hired Attorney Jeff Sienkiewicz to review the easements and to draft a revised easement. Attorney P. Olson stated that this

revised easement is based on the same easement, except the exemptions are expanded for more clarification, and that it is not only the grantors that could construct the water tank on the property, but that the owners could grant an easement to the Town for the installation of the water tank. Attorney P. Olson stated that the Board of Selectmen will need to approve the execution of the revised easement for the owners of 540 Federal Road to execute it. There is also a notice to provide to the Inland Wetlands Commission whenever a change has been made. Attorney P. Olson stated that he and Marty Handshy are asking for the Planning Commission's approval of the revised conservation easement.

D. Frankel asked if the Town will be paying for the work and the construction of the water tank. M. Handshy stated that this is a Town project, and what is planned is that Aquarion Water Company will take over the project and will reimburse the Town for the fees that it has paid. D. Frankel asked if the Town has a written contract with Aquarion and asked if Aquarion will be responsible for maintenance work on the road. Attorney P. Olson stated that the property owners need to give the Town an easement for the work for the water tank, and that he is close to having a contract with the property owners for the acquisition of the tank easement, which would be for the pipes and for the roads and the tank. Attorney P. Olson stated that the current conservation easement needs to reflect more specific terms in order to construct the tank. M. Handshy stated that there are maintenance agreements, and that these utilities are under a sixty year lease that eventually reverts to the water company. The actual line and tank will be installed by Aquarion. M. Handshy stated that the benefit assessment will be reduced by 35 to 40 percent.

Chairman Van Hise stated that the Planning Commission has only modified conservation easements in the past a few times. Chairman Van Hise stated that in this case the developer is not requesting this revised easement. Attorney P. Olson stated that there is a provision in the contract that is a contingency of closing that the developer execute the revised conservation easement. Chairman Van Hise stated that he is satisfied with this revised conservation easement and he is glad that the hiking trails and recreational uses have been preserved.

Attorney P. Olson noted that if there are any non-clerical errors, he and M. Handshy will return to the Commission with the revised conservation easement. Attorney P. Olsen stated that this document has also been reviewed by Aquarion's counsel.

Chairman Van Hise noted that 8-24 referral approvals should have been obtained through the Planning Commission for this project.

A. Kerley asked R. Tedesco if the tank would be alright on the slope, and R. Tedesco stated that he believed that it was not unusual for tanks to be built in this way. M. Handshy stated that Aquarion stated that after initial construction, the tank will be inspected once per week. M. Handshy stated that the referendum for the tank approved a large budget for this project – approximately 4.7 million. N. Tolmoff asked what the time frame is to have this project built. M. Handshy stated that the goal is to install the tank between June and November, and that it would be more difficult to complete the work during the holiday season. M. Handshy stated that there has been much effort to make this project more cost effective, and that now the goal is to get the time periods meshed between the Town and Aquarion Water Company. M. Handshy also noted that the project should be timed as to relate the road improvements with the water tank.

D. Frankel asked if the water tank will be accessible during inclement weather. M. Handshy stated that this is a maintenance issue with Aquarion Water Company. R. Tedesco stated that he believes that a four wheel drive vehicle could be brought up the hill easily in a snow storm.

A. Kerley made a motion that in the matter of 540 Federal Road, the Planning Commission looks favorably upon the amended and restated conservation easement as received April 4, 2012 with the stipulation that the Commission reserves the right to review this easement agreement if any changes are made other than minor changes and typos, etc. R. Baiad seconded the motion, and it carried unanimously, 5-0.

Attorney P. Olson stated that the approval letter of 2008 references fire tanks and fire ponds, and that the owner agreed to this water tank partly because that condition may be waived because there is a water tank available. Attorney P. Olson stated that he will be back to ask that the Commission revise the conditions of the approval.

Chairman Van Hise thanked M. Handshy for the update.

D’Arcangelo Subdivision:

R. Tedesco stated that the bond for the D’Arcangelo Subdivision may be expiring if it has not already expired. R. Tedesco noted that the subdivision is not finished. R. Tedesco asked if there is a way to track the bonds. Chairman Van Hise stated that the Land Use Office generally tracks the bonds. E. Cole stated that the Land Use Office keeps an Excel spreadsheet of all the Commission bonds.

Four Corners Project:

Chairman Van Hise stated that he and R. Tedesco are on the advisory committee for the Four Corners project, and he noted that there will be a session started on May 7th. On May 8th and May 9th there will be an open house and group discussions and community workshops. Chairman Van Hise stated that there will also be interview groups on transportation, historical preservation, and many more workshops. Chairman Van Hise noted that he will probably attend the evening workshops. Chairman Van Hise noted that there has been a survey that stated that there are 67 potential acres of developmental land. Chairman J. Van Hise stated that there are already 756 responses from the visual preference email survey.

8. Tabled Items: None.

9. Adjourn:

A. Kerley made a motion to adjourn at 8:48 PM. L. Taylor seconded the motion, and it carried unanimously, 5-0.

****Next Regular Meeting Scheduled for May 3, 2012****